

DOUBLE TAXATION

Convention and protocol signed at Paris April 27, 1932

Senate advice and consent to ratification June 15, 1932

Ratified by the President of the United States July 25, 1932

Ratified by France April 8, 1935

Ratifications exchanged at Paris April 9, 1935

Proclaimed by the President of the United States April 16, 1935

Entered into force January 1, 1936

*Terminated January 1, 1945, by convention of July 25, 1939*¹

49 Stat. 3145; Treaty Series 885

CONVENTION

The PRESIDENT of the UNITED STATES of AMERICA and the PRESIDENT of the FRENCH REPUBLIC being desirous of regulating certain questions relative to double taxation, have decided to conclude a Convention on that subject, and for that purpose they have appointed as their respective Plenipotentiaries:

The PRESIDENT of the UNITED STATES of AMERICA,

Mr. Walter E. EDGE, Ambassador Extraordinary and Plenipotentiary of the United States of America to France.

The PRESIDENT of the FRENCH REPUBLIC,

M. André TARDIEU, Member of the House of Representatives, President of the Council of Ministers, Minister for Foreign Affairs, Officer of the Legion of Honour,

who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I

Enterprises of one of the contracting States are not subject to taxation by the other contracting State in respect of their industrial and commercial profits except in respect of such profits allocable to their permanent establishments in the latter State.

No account shall be taken, in determining the tax in one of the contracting States, of the purchase of merchandise effected therein by an enterprise of the

¹ TS 988, *post*, p. 1046.

other State for the purpose of supplying establishments maintained by such enterprise in the latter State.

ARTICLE II

American enterprises having permanent establishments in France are required to submit to the French fiscal administration the same declarations and the same justifications, with respect to such establishments, as French enterprises.

The French fiscal administration has the right, within the provisions of its national legislation and subject to the measures of appeal provided in such legislation, to make such corrections in the declaration of profits realized in France as may be necessary to show the exact amount of such profits.

The same principle applies *mutatis mutandis* to French enterprises having permanent establishments in the United States.

ARTICLE III

Income which an enterprise of one of the contracting States derives from the operation of aircraft registered in such State and engaged in transportation between the two States is taxable only in the former State.

ARTICLE IV

When an American enterprise, by reason of its participation in the management or capital of a French enterprise, makes or imposes on the latter, in their commercial or financial relations, conditions different from those which would be made with a third enterprise, any profits which should normally have appeared in the balance sheet of the French enterprise, but which have been, in this manner, diverted to the American enterprise, are, subject to the measures of appeal applicable in the case of the tax on industrial and commercial profits, incorporated in the taxable profits of the French enterprise.

The same principle applies *mutatis mutandis*, in the event that profits are diverted from an American enterprise to a French enterprise.

ARTICLE V

American corporations which maintain in France permanent establishments may, in derogation of Article 3 of the Decree of December 6, 1872, elect to pay the tax on income from securities on three-fourths of the profits actually derived from such establishments, the industrial and commercial profits being determined in accordance with Article I.

An American corporation which wishes to place itself under the regime of the preceding paragraph must make a declaration to that effect at the Bureau of Registration within six months after the date upon which this Agreement becomes effective or within six months after the creation of its establishment

in France. The election made for one establishment applies to all the establishments of such corporation. Any such election is irrevocable.

ARTICLE VI

An American corporation shall not be subject to the obligations prescribed by Article 3 of the Decree of December 6, 1872, by reason of any participation in the management or in the capital of, or any other relations with, a French corporation, if such American corporation and French corporation conform to the requirements of the present article. In such case, the tax on income from securities continues to be levied, in conformity with French legislation, on the dividends, interest and all other products distributed by the French enterprise; but it is moreover exigible, if the occasion arises, and subject to the measures of appeal applicable in the case of the tax on income from securities, on the profits which the American corporation derives from the French corporation under the conditions prescribed in Article IV.

An American corporation which wishes to place itself under the regime of the preceding paragraph must make a declaration to that effect at the Bureau of Registration jointly with the interested French corporation, within six months after the date upon which this Agreement becomes effective or within six months after the acquisition of the participation or the commencement of the relations of a nature to entail the application of Article 3 of the Decree of December 6, 1872. Any such election is irrevocable.

American corporations which have not made the declaration and which are subjected to the provisions of Article 3 of the Decree of December 6, 1872, shall enjoy the benefits of Articles 27, 28 and 29 of the French law of July 31, 1920, and Article 25 of the French law of March 19, 1928, under the same conditions as French corporations.

ARTICLE VII

Compensation paid by one of the contracting States to its citizens for labor or personal services performed in the other State is exempt from tax in the latter State.

ARTICLE VIII

War pensions paid by one of the contracting States to persons residing in the territory of the other State are exempt from tax in the latter State.

ARTICLE IX

The following classes of income paid in one of the contracting States to a corporation of the other State, or to a citizen of the latter State residing there, are exempt from tax in the former State:

(a) amounts paid as consideration for the right to use patents, secret processes and formulas, trade marks and other analogous rights;

- (b) income received as copyright royalties;
- (c) private pensions and life annuities.

ARTICLE X

This Agreement shall be ratified and the instruments of ratification exchanged at Paris as soon as possible.

The Agreement shall become effective on the first day of January following the exchange of ratifications and shall remain effective for a period of five years, and thereafter until twelve months from the date on which either Contracting Party gives notice of its termination.

American corporations which prior to May 1, 1930, have not had their liability to tax under Article 3 of the Decree of December 6, 1872, finally determined, and which make the declaration prescribed in Article VI of the present convention, shall not be subject to the application of Article 3 of the Decree of December 6, 1872, for any years preceding the coming into force of the Agreement.

In witness whereof, the respective Plenipotentiaries have signed the above articles, both in the English and French languages, and have hereunto affixed their seals.

Done in duplicate at Paris, on the 27th of April, 1932.

WALTER E. EDGE [SEAL]

ANDRÉ TARDIEU [SEAL]

PROTOCOL

At the moment of signing the Convention on Double Taxation between the United States of America and the Republic of France, the undersigned Plenipotentiaries, duly authorized by their respective Governments, have agreed, as follows:

(1) The taxes referred to in this Agreement are:

(a) for the United States:

the Federal income tax—but it is understood that Article 1 does not exempt from tax (1) compensation for labor or personal services performed in the United States; (2) income derived from real property located in the United States, or from any interest in such property, including rentals and royalties therefrom, and gains from the sale or the disposition thereof; (3) dividends; (4) interest.

(b) For France:

—in articles I, II, III and IV, the tax on industrial and commercial profits (*impôt sur les bénéfices industriels et commerciaux*);

—in articles III, V and VI, the tax on income from securities (*impôt sur les revenus des valeurs mobilières*) ;

—in articles VII, VIII and IX, the tax on wages and salaries, pensions and life annuities (*impôt sur les traitements et salaires, pensions et rentes viagères*), and other schedular taxes (*impôts cédulaires*) appropriate to the type of income specified in said articles;

(2) The provisions of this Agreement shall not be construed to affect in any manner any exemption, deduction, credit or other allowance accorded by the laws of one of the contracting States in the determination of the tax imposed by such State.

(3) As used in this Agreement:

(a) The term "permanent establishment" includes branches, mines and oil wells, factories, workshops, warehouses, offices, agencies, and other fixed places of business, but does not include a subsidiary corporation.

When an enterprise of one of the States carries on business in the other State through an agent established there who is authorised to contract for its account, it is considered as having a permanent establishment in the latter State.

But the fact that an enterprise of one of the contracting States has business dealings in the other State through a bona fide commission agent or broker shall not be held to mean that such enterprise has a permanent establishment in the latter State.

(b) The term "enterprise" includes every form of undertaking whether carried on by an individual, partnership (*société en nom collectif*), corporation (*société anonyme*), or any other entity.

(c) The term "enterprise of one of the contracting States" means, as the case may be, "American enterprise" or "French enterprise".

(d) The term "American enterprise" means an enterprise carried on in the United States by a citizen of the United States or by an American corporation or other entity; the term "American corporation or other entity" means a partnership, corporation or other entity created or organized in the United States or under the law of the United States or of any State or Territory of the United States.

(e) The term "French enterprise" is defined in the same manner, *mutatis mutandis*, as the term "American enterprise".

(f) The American corporations mentioned in Articles V and VI are those which, owing to their form of organization, are subject to Article 3 of the Decree of December 6, 1872. The present Agreement does not modify the regime of "abonnement" for securities.

(g) The term "United States", when used in a geographical sense, includes only the States and the Territories of Alaska and Hawaii, and the District of Columbia.

(h) The term "France", when used in a geographical sense, indicates the country of France, exclusive of Algeria and the Colonies.

Done in duplicate at Paris, the 27th of April, 1932.

WALTER E. EDGE

ANDRÉ TARDIEU